

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AEGEAN MARINE PETROLEUM S.A.,

Plaintiff,

v.

M/V KAVO PLATANOS, her tackle, boilers,
apparel, furniture, engines, appurtenances, etc.,

Defendants *in rem*.

and

CANPOTEX SHIPPING SERVICES LTD., *et*
al.,

Defendants and Garnishee.

No. 15-cv-00172-RAJ

ING BANK N.V.'S VERIFIED
STATEMENT OF INTEREST

Pursuant to Supplemental Rule C(6), ING Bank N.V. ("ING Bank" or the "Bank"), as security agent, by its attorneys, for its Verified Statement of Interest against KAVO PLATANOS, her tackle, boilers, apparel, furniture, engines, appurtenances, etc., and Certain Bunkers on board the M/V KAVO PLATANOS, and/or the substitute *res*, states on information and belief as follows:

ING BANK N.V.'S VERIFIED STATEMENT OF
INTEREST - 1
Case No. 15-cv-00172-RAJ

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1 1. ING Bank was and remains a foreign financial institution organized and existing
2 under the laws of the Netherlands with its principal place of business in Amsterdam, the
3 Netherlands.

4 2. OW Bunker & Trading A/S was an international provider of marine fuels that
5 commenced in-court restructuring proceedings at the probate court in Alborg, Denmark in
6 November 2014.

7 3. Certain other O.W. Bunker group entities have subsequently commenced
8 insolvency proceedings in jurisdictions around the globe, including the District of Connecticut.

9 4. ING Bank acts as the Security Agent (the "Security Agent") under that certain
10 USD 700,000,000 Multicurrency Revolving Borrowing Base Facilities Agreement, dated as of
11 December 19, 2013 (the "Credit Agreement") and the related English Omnibus Security
12 Agreement, dated as of December 19, 2013 (the "Security Agreement", and together with the
13 Credit Agreement and all other agreements related to or ancillary thereto, the "Finance
14 Documents"), each among ING Bank, O.W. Bunker USA Inc., and O.W. Bunker North America
15 Inc. (together with O.W. Bunker Holding North America Inc., the "OW Bunker Debtors"), O.W.
16 Bunker & Trading A/S, O.W. Bunkers (UK) Limited and certain of their affiliates.

17 5. Canpotex Shipping Services Ltd. ("Canpotex"), the owner of the Vessel,
18 contracted with O.W. Bunkers (UK) Limited for the supply of bunkers to the M/V KAVO
19 PLATANOS ("KAVO" or the "Vessel").

20 6. A true and correct copy of the sales order confirmation between Canpotex and
21 O.W. Bunkers (UK) Limited dated October 17, 2014 is attached as Exhibit A.
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1 7. A true and correct copy of the invoice sent from O.W. Bunkers (UK) Limited to
2 Canpotex dated October 22, 2014 is attached as Exhibit B.

3 8. The invoice instructed that payment be made to ING Bank, and was made
4 pursuant to the O.W. Bunker Group's General Terms and Conditions of Sale for Marine Bunkers
5 (the "Terms and Conditions"). A true and correct copy of the Terms and Conditions is attached
6 as Exhibit C.

7
8 9. The Terms and Conditions set the terms of payment between O.W. Bunkers (UK)
9 Ltd. (as "Seller") and Canpotex (as "Buyer") for the furnishing of necessities to the Vessel.

10 11. The Terms and Conditions provide that "Payment shall be made in full, without
11 any set off, counterclaim, deduction and/or discount free of bank charges to the bank account
12 indicated by the Seller on the respective invoice(s)." Ex. C ¶ I.2.

13 13. The Terms and Conditions also provide that, "Any delay in payment of the full
14 sum due shall entitle the Seller to interest at the rate of 3 (three) percent per month (compounded
15 monthly for each month [or part thereof] of non-payment) without prejudice to any rights or
16 remedies available to the Seller." Ex. C ¶ I.5.

17 14. Furthermore, "All costs borne by the Seller in connection with the collection of
18 overdue payments including those of the Seller's own legal and credit department and including
19 but not limited to reasonable attorneys' fees whether made in or out of court and in general all
20 costs in connection with breach of any agreement by the Buyer including but not limited to
21 reasonable attorneys' fees shall be for the sole account of the Buyer." Ex. C ¶ I.7.

22 15. Finally, a maritime lien, pursuant to the Maritime Lien Act, 46 USC 30101, *et*
23 *seq.*, in favor of O.W. Bunkers (UK) Ltd. -- as Seller and the direct contract counterparty of the
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1 Vessel's authorized agent Canpotex on this fuel delivery -- arises by virtue of the parties'
2 agreement under paragraph I.9 of the Terms and Conditions, which state: "Where bunkers are
3 supplied to a Vessel in addition to any other security the Agreement is entered into and the
4 Goods are supplied upon the faith and credit of the Vessel. It is agreed and acknowledged that
5 the sale of bunkers to the Buyer and/or their acceptance on the Vessel create a maritime lien over
6 the Vessel for the price of the Bunkers (and all interest and costs payable in respect thereof
7 including but not limited to the reasonable attorney's fees)." Ex. C ¶ I.9.

9 16. O.W. Bunkers (UK) Limited has, pursuant to the Finance Documents, assigned to
10 ING Bank its interest in respect of all amounts owing by KAVO or its owner, Canpotex under its
11 supply contract receivables, including unpaid invoices, totaling \$466,650.00 plus interest on late
12 payments pursuant to the Terms and Conditions (the "Disputed Funds").

13 17. This assignment includes its interest in respect of any maritime lien rights in
14 connection with the supply of bunkers to KAVO.

15 18. Canpotex owes and has not paid any O.W. Bunker entity the Disputed Funds.

16 19. The Disputed Funds are to be paid to ING Bank as assignee of the rights of O.W.
17 Bunkers (UK) Limited, including as to the enforcement of its maritime lien, pursuant to the
18 Finance Documents.

19 20. Accordingly, ING Bank seeks to enforce the maritime lien, pursuant to Rule C of
20 the Supplemental Admiralty Rules for Admiralty and Maritime Claims and Asset Forfeiture
21 Actions.

22 21. ING Bank reserves the right to assert further claims or defenses, as necessary
23 against the parties to this action, including but not limited to claims or defenses it has regarding
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1 its status as senior secured creditor in respect of customer supply receivables owing to applicable
2 O.W. Bunker entities, and expressly reserves all its rights to proceed and enforce its rights to
3 collect upon the unpaid invoice which indisputably remains due and owing between Canpotex
4 and O.W. Bunker (UK) Ltd. Nothing herein is intended to prejudice ING Bank's rights to
5 proceed on its *in personam* claim. Such claims and defenses are neither necessary nor required
6 to be asserted herein at this stage of the proceedings.
7

8
9 DATED this 4th day of June, 2015.

10
11 s/ Steven W. Block

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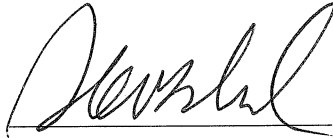
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VERIFICATION

STATE OF)
WASHINGTON)
COUNTY OF)
KING)

Personally before me, the undersigned authority, came and appeared
Steven W. Block, who being by me first duly sworn, did depose and say:

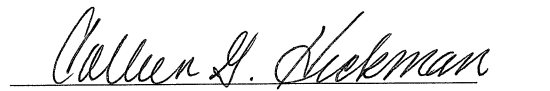
That he is a member of the firm of Foster
Pepper, PLLC attorneys of record- for ING
Bank N.V., that he has read the ING Bank
N.V.'s Verified Statement of Interest filed on
behalf of said party and knows the contents
thereof, that the same are true and correct
except those allegations made on information
and belief, and those he verily believes to be
true, that the source of his information and the
grounds of his belief are documents and
information supplied to him by ING Bank
N.V. and/or its authorized representatives; the
reason this affidavit is made by him and not
by ING Bank N.V. is that said party is a
foreign corporate entity, none of whose
officers are present within the Western
District of Washington; and that he is duly
authorized to make this Verification.



Steven W. Block



Sworn to and subscribed before me this
The 4th day of June, 2015.


Notary Public, State of Washington
My Commission expires 1-29-2017

ING BANK N.V.'S VERIFIED STATEMENT OF
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CERTIFICATE OF SERVICE

I hereby certify service that on June 4, 2015, I electronically filed the preceding document with the Clerk of the Court using the CM/ECF system which will send notification to the counsel of record in this case:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated June 4, 2015.

s/ Steven W. Block
Steven W. Block

ING BANK N.V.'S VERIFIED STATEMENT OF
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